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GENERAL BULLETIN NO. 311

The Pennsylvania Dog Law
With Opinions of the
Department of the Attorney General
of the
Commonwealth of Pennsylvania

ALSO

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AND

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Chas. E. Patton, Secretary of Agriculture, Harrisburg, Pa.

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Harrisburg, Pa., April 18, 1918.

To County Commissioners, County Solicitors, District Attorneys,
Mayors, Burgesses and all Police Officers and Assessors:

The information contained in this bulletin is prepared for all administrative officers charged with the enforcement of the "Dog Law of 1917."

We believe that the opinions of the Attorney General's Department will more clearly define the duties of these officers and establish the correct legal means of procedure as well as unify this work in the Commonwealth.

The Department insists upon the rigid enforcement of this Act of Assembly throughout the Commonwealth and to this end stands ready to assist each administrative officer.

The Department also invites complaints from the citizens of this State and will give prompt attention to the same.

Yours very truly,

CHAS. E. PATTON,
Secretary of Agriculture.



AN ACT

Relating to dogs, and the protection of livestock and poultry from damage by dogs; providing for the licensing of dogs; regulating the keeping of dogs, and authorizing their destruction in certain cases; providing for the protection of licensed dogs, and for dogs temporarily imported for trial, show, and breeding purposes; prescribing certain privileges for hunting dogs, and dogs owned or used by the Board of Game Commissioners; providing for the assessment of damages done by dogs, and payment thereof by the proper county to the owners of livestock and poultry, and of damages to licensed dogs; imposing powers and duties on certain State, county, city, borough, town, and township officers and employes, and on city councils of cities of the first and second class; and providing penalties.

Section 1. Be it enacted, &c., That this act shall be known and may be cited as the Dog Law of One Thousand Nine Hundred and Seventeen. Dog Law of 1917.

Section 2. For the purpose of this act the following terms shall have the following meanings respectively designated for each: Meanings of terms.

The term "livestock" shall include horses, stallions, colts, geldings, mares, sheep, rams, lambs, bulls, bullocks, steers, heifers, cows, calves, mules, jacks, jennets, burros, goats, kids, and swine. "Livestock" defined.

The term "poultry" shall include all domestic fowl. "Poultry" defined.

The word "person" shall include State and local officers or employes, individuals, corporations, copartnerships, and associations. Singular words shall include the plural. Masculine words shall include the feminine and neuter. "Person," defined.

The word "owner," when applied to the proprietorship of a dog, shall include every person having a right of property in such dog, and every person who keeps or harbors such dog or has it in his care, and every person who permits such dog to remain on or about any premises occupied by him. Number and gender.

Section 3. The term "kennel" shall mean any establishment wherein or whereon dogs are kept for the purpose of breeding, sale, or sporting purposes. "Owner" defined.

The term "police officer" shall mean any person employed or elected by this Commonwealth, or by any municipality, county, or township, and whose duty it is to preserve peace or to make arrests or to enforce the law. The term includes game, fish and forest-wardens. "Kennel" defined.

Section 4. On or before the fifteenth day of January, one thousand nine hundred and eighteen, and on or before the fifteenth day of January of each year thereafter, the owner of any dog six months old or over shall apply to the county treasurer, either orally or in "Police officer" defined.

Applicants for license.

Fee for each dog.	writing, for a license for each such dog owned or kept by him. Such application shall state the breed, sex, age, color, and markings of such dog, and the name and address of the last previous owner; and shall be accompanied by a fee of not less than one dollar, nor more than two dollars, for each male dog and each spayed female dog; and by a fee of not less than two dollars, nor more than four dollars, for each unspayed female dog. The license fee shall be determined by the commissioners of the several counties of the State, and shall be the only license or tax required for the ownership or keeping of said dog or dogs.
License.	Section 5. Such license shall be issued on a form prepared and supplied by the county commissioners. Such license shall be dated and numbered, and shall bear the name of the county issuing it and a description of the dog licensed. All licenses shall be void upon the fifteenth day of January of the following year. The county commissioners shall also furnish, and the county treasurer shall issue, with each license, a metal tag. Such tag shall be affixed to a substantial collar. The collar shall be furnished by the owner, and with the tag attached shall at all times be kept on the dog for which the license is issued, except when confined in the kennel; and except, also, that dogs owned or used by the Board of Game Commissioners of the Commonwealth, or their special deputy game-protectors, servants, agents, and employes, shall not be required to wear the collar and tag aforesaid when used in hunting wildcat and bear during the winter months of December, January and February in each and every year.
When void.	
Collar and tag to be kept on dog.	
Exceptions.	
County commissioners to furnish tags.	Section 6. The county commissioners shall prepare, and furnish annually to the county treasurer, metal tags to be given by the county treasurer to the owners of dogs when such owners shall pay the license fee for said dogs. Such tags shall be of metal, and shall bear the name of the county issuing it, and a serial number corresponding with the number on the license issued to said owner, as provided in the preceding section of this act. Such tags shall also have impressed thereon the calendar year for which such tag is issued, and shall not be more than one inch in length, and shall be equipped with a substantial metal fastening device. The general shape of said tag shall be changed from year to year.
Tags described.	
Lost tags to be replaced without cost.	If any such tag is lost it shall be replaced without cost by the county treasurer, upon application by the person to whom the original license was issued, and upon production of such license.
Tags issued by justice of the peace.	Section 7. Any justice of the peace within the county who has qualified by having applied to the county treasurer, and having received and receipted

for necessary blanks and tags, may issue such dog license and tags in like manner as prescribed for the issuance of licenses by the county treasurer. When a license is issued by a justice of the peace the person applying for the license shall pay fifteen cents to the said justice, in addition to the other fees prescribed as the cost of said license. Said fifteen cents shall be retained by the justice of the peace as his fee for the issuance of said license and reporting the same and remitting payment therefor to the county treasurer. Such report and remittance shall be made by the justice of the peace within twenty-four hours after the issuance of any license by him; whereupon the county treasurer shall make a record of, and otherwise treat, said license as though it had been issued from his office, except that he shall also note upon his record the name of the justice issuing the license.

Fee of justice of the peace.

Every justice of the peace shall deliver the book or books from which he has issued licenses, together with the stubs therein properly filled out and showing the names of each licensee and the number of the license issued to him, to the county treasurer before the fifteenth day of January of each year.

Report to county treasurer.

Section 8. Any person becoming the owner, after the fifteenth day of January of any year, of any dog six months old or over which has not already been licensed, or any person owning or keeping a dog which becomes six months old at any time after the fifteenth day of January of any year, shall forthwith apply for and secure a license for such dog in the same manner as the annual license is obtained under the provisions of this act. If any such application is made at any time after the fifteenth day of July of any year the license fee shall be,—for each male or unspayed female dog, one-half of the amount fixed as the annual license, by county commissioners, for male or spayed female dogs; for each unspayed female dog, one-half of the amount fixed as the annual license, by the county commissioners, for unspayed female dogs.

License for dogs six months old.

Fee.

Section 9. No license or license tag issued for one dog shall be transferable to another dog, except as provided in sections eleven and twelve of this act. Whenever the ownership or possession of any dog is permanently transferred from one person to another within the same county, the license of such dog may be likewise transferred, upon notice given to the county treasurer. This act does not require the procurement of a new license, or the transfer of a license already secured, when the possession of a dog is temporarily transferred for the purpose of hunting game, or for breeding, trial, or show, in this Commonwealth.

Transfer of license or tag.

Section 10. Whenever any dog licensed in one county is permanently removed to another county, the county treasurer of the county where the license was issued

Removal of dog to another county.

shall, upon the application of the owner or keeper of such dog, certify such license to the treasurer of the county to which the dog is removed. Such treasurers shall thereupon, and upon the payment of a fee of twenty-five cents, issue a license and tag for such dog in the county to which it is removed.

When this section does not apply.

This section does not apply to dogs used during the hunting season for hunting game, or temporarily for breeding, trial, or show, in the Commonwealth; nor for the transportation of dogs for hunting, breeding, trial, or show purposes, the home county license holding good for such purposes throughout the Commonwealth.

Kennel license.

Section 11. Any person who keeps or operates a kennel may, in lieu of the license for each dog required by this act, apply to the county treasurer for a kennel license entitling him to keep or operate such kennel. Such license shall be issued by the county treasurer, on a form prepared and supplied by the county commissioners, and shall entitle the licensee to keep any number of dogs six months old or over, not at any time exceeding a certain number to be specified in the license. The fee to be paid for each kennel license shall be five dollars for ten dogs or less, and ten dollars for more than ten dogs permitted to be kept under the kennel licenses. With each kennel license the county treasurer shall issue a number of metal tags equal to the number of dogs authorized to be kept in the kennel. All such tags shall bear the name of the county issuing it, the number of the kennel license, and shall be readily distinguishable from the individual license tags for the same year.

Fee.

Tags.

Transfer of tags.

Section 12. The licensee of a kennel shall, at all times, keep one of such tags attached to a collar on each dog six months old or over kept by him under a kennel license. Such tags may be transferred from one dog to another within the kennel whenever any dog is removed from the kennel. No dog bearing a kennel tag shall be permitted to stray or to be taken anywhere outside the limits of the kennel.

Dogs temporarily outside of kennel.

This section does not prohibit the taking of dogs having a kennel license outside the limits of the kennel temporarily and in leash, nor does it prohibit the taking of such dogs out of the kennel temporarily for the purpose of hunting, breeding, trial, or show.

Dogs brought into the State temporarily.

Section 13. Any person may bring or cause to be brought into the State, for a period of thirty days, one or more dogs for show, trial, or breeding purposes.

County treasurer to keep record.

Section 14. The county treasurer shall keep a record of all dog licenses, and all kennel licenses, and all permits issued during the year. Such record shall contain the name and address of the person to whom each license or permit is issued. In the case of an individual license, the record shall also state the breed, sex,

age, color, and markings of the dog licensed; and in the case of a kennel license, it shall state the place where the business is conducted. The record shall be a public record and open to persons interested, during business hours.

Whenever the ownership or possession of any dog licensed under the provisions of this act is transferred from one person to another, except the temporary transfer of dogs for hunting purposes, or for breeding, trial, or show, as provided in section nine of this act, such transfer shall be noted on the record of the county treasurer.

Transfers to be recorded.

Section 15. An accurate record of all license fees collected by the county treasurer, or paid over to him by any justice of the peace, shall be kept as a matter of information; but all such funds shall be turned into the county funds. All moneys at present in the "dog fund" derived from taxation of dogs, under the existing law, shall be turned into the county fund. All bills incurred under this act, or due at the time of the passage of this act, shall be paid out of the county fund, and any excess moneys collected under this act shall be used for other county purposes.

County to get fees.

Payment of bills.

Section 16. The assessors for taxation purposes in each township, borough, town, and city of this Commonwealth shall annually, at the time of assessing property as required by law, make diligent inquiry as to the number of dogs owned, harbored, or kept by any person so assessed.

Inquiry by assessors.

The assessor shall annually, on or before the thirty-first day of December, make a complete report, on a blank form furnished by the county commissioners, to such commissioners, setting forth the name of every owner of any dog or dogs, how many of each sex are by him owned or harbored, and if a kennel is maintained by any person such fact shall also be stated. It shall be the duty of the assessor, at the time of making the assessment, to notify the owner of such dog or dogs that he must obtain a license for the same as provided for in this act; but the neglect or failure so to notify such owner shall not relieve the owner from his duty to obtain such licenses.

Assessors' report.

Section 17. On and after the fifteenth day of January, one thousand nine hundred and eighteen, it shall be unlawful for any person to own or keep any dog six months old or over unless such dog is licensed by the treasurer of the county in which the dog is kept; and unless such dog at all times wears the collar and tag provided for by this act, unless such dogs are temporarily brought into the State for breeding, trial, or show purposes.

Act effective January 15, 1918.

Seizure of dogs
running at large.

Duties of officers.

Disposal of un-
claimed dogs.

Sale for vivisection
prohibited.

Pay of officers.

Penalty for nonper-
formance of duty.

When dogs may
be killed.

Section 18. It shall be the duty of every police officer to seize and detain any dog or dogs which bear a proper license tag, and which are found running at large and unaccompanied by its owner or keeper. It shall be the duty of every police officer to kill any dog which does not bear a proper license tag, which is found running at large. The chief of police or his agents, of any city, the high constable of any borough, or the constable of any borough not having a high constable, and the constable of any incorporated town or township, shall cause any dog bearing a proper license tag and so seized and detained to be properly kept and fed, and shall cause immediate notice, either personal or by registered mail, to be given to the person in whose name the license was procured, or his agent, to claim such dog within ten days. The owner of a dog so detained shall pay all reasonable expenses incurred by reason of its detention, under the provisions of this section, before the dog is returned.

Section 19. If, after ten days from the giving of such notice, such dog has not been claimed, such chief of police or his agent, constable, or high constable shall dispose of such dog by sale, or by destruction in some humane manner. No dog so caught and detained shall be sold for the purpose of vivisection. All moneys derived from the sale of such dog, after deducting the expense of its detention, shall be paid to the county treasurer and by him placed in the county fund. For services under sections eighteen and nineteen of this act, such officers shall be paid the sum of one dollar for detaining a licensed dog, and the sum of one dollar for the killing of a dog. All expenses incurred under this act or the preceding section, and not otherwise provided for, shall be paid by the proper county.

Section 20. For failure to perform his duty under the provisions of this act, such police officer shall be liable to a penalty of two dollars for each offense, which amount shall be deducted from any amount due such police officer from the county, at any settlement between such officer and the county commissioners.

Section 21. Any person may kill any dog which he sees in the act of pursuing, worrying, or wounding any livestock, or attacking human beings, whether or not such dog bears the license tag required by the provisions of this act. There shall be no liability on such person in damages or otherwise for such killing.

Any unlicensed dog that enters any field shall constitute a private nuisance, and the owner or tenant of such field, or their agent or servant, may kill such dog while it is in the field, without liability or responsibility of any nature for such killing.

Licensed dogs when accompanied by their owner or handler shall not be included under the provisions of this section, unless caught in the act of worrying, wounding, or killing any livestock, or attacking human beings.

Section 22. All dogs are hereby declared to be personal property and subjects of larceny. Except as provided in section twenty-one of this act, it is unlawful for any person, except a police officer, to kill, injure, or poison, or to attempt to kill, injure, or poison, any dog which bears a license tag for the current year.

Subjects of larceny.

It is unlawful for any person to place any dog-bait, or any poison of any description, in any place on his own premises or elsewhere where it may be easily found and eaten by dogs.

Poisoning.

It shall be unlawful for any person, except the owner or authorized agent, to remove any license tag from a dog collar, or to remove any collar with a license tag attached thereto, from any dog.

Removal of tag.

It shall be unlawful for any person to harbor, or permit to remain about his premises, any dog not having a license.

Harboring.

This section does not prohibit the Board of Game Commissioners, or any of its officers and agents, from placing poison, under the provisions of the game laws of this Commonwealth.

Board of Game Commissioners.

Section 23. It is unlawful for the owner or keeper of any female dog to permit such female dog to go beyond the premises of such owner or keeper at any time she is in heat, unless such female dog is held properly in leash.

Female dog.

Section 24. The owner or keeper of every dog shall at all times, between sunset and sunrise of each day, keep such dog,—either (a) confined within an enclosure from which it cannot escape, or (b) firmly secured by means of a collar and chain or other device so that it cannot stray beyond the premises on which it is secured, or (c) under the reasonable control of some person, or when engaged in lawful hunting accompanied by an owner or handler.

Night straying prohibited.

Section 25. Whenever any person sustains any loss or damage to any livestock or poultry by dogs, or any livestock of any person is necessarily destroyed because of having been bitten by a dog, such person, or his agent or attorney, may complain to any township auditor, or to any justice of the peace, magistrate, or alderman of the township, town, borough, or city. Such complaint shall be in writing, shall be signed by the person making such complaint, and shall state when, where, and how such damage was done, and by whose dog or dogs, if known. Such township auditor, justice of the peace, magistrate, or alderman shall at once examine the place where the alleged loss or dam-

Damage to or loss of livestock.

Complaint by owner.

Determination of
amount of damage.

age was sustained and the livestock or poultry injured or killed, if practicable. He shall also examine, under oath or affirmation, any witness called before him. After making diligent inquiry in relation to such claim, such township auditor, justice, magistrate, or alderman shall determine whether any damage has been sustained and the amount thereof, and, if possible, who was the owner of the dog or dogs by which such damage was done.

Liability of
owner or keeper.

Any owner or keeper of such dog or dogs shall be liable to the owner of such livestock or poultry in a civil action for all damages and costs, or to the county to the extent of the amount of damages paid by such county as hereinafter provided.

Certificate of
examination.

Section 26. Upon making the examination required in section twenty-five of this act, the township auditor, justice, magistrate, or alderman shall immediately make a certificate thereto, signed and sealed by him, that such appraisalment was regularly and duly made. If, by such examination, it appears that any damage has been sustained by the complainant, the township auditor, justice, magistrate, or alderman shall deliver the report of such examination, and all papers relating to the case, to the claimant, or his agent or attorney, upon payment of the costs up to that time. Such report shall be delivered to the county commissioners to be filed in their office.

Fee for special
service.

Section 27. Township auditors, justices of the peace, magistrates, and aldermen, for the special service required under sections twenty-five and twenty-six of this act, shall receive two dollars for each case, and five cents per mile for each mile traveled, to be paid by the claimant in each case. In all cases where damages are awarded, the fees paid by claimants shall be included in the amount of such damages.

Payment of claim
for loss or dam-
age.

Section 28. Upon the commissioners of the county receiving such report, if it appears thereby that a certain amount of damage has been sustained by the claimant, they shall immediately draw their order on the treasurer of the county in favor of the claimant for the amount of loss or damage such claimant has sustained according to such report, together with necessary and proper costs incurred. Such amount shall be paid by the proper county. No person shall receive any order for any claim until the township auditor, justice of the peace, magistrate, or alderman, before whom the claim was made has certified that due diligence was made to ascertain whose dog or dogs did the damage, and that the carcasses of the livestock or poultry killed, and for which damages have been assessed, were buried within twenty-four hours after the assessment of damages. The owners of any livestock or poultry killed by dogs, or livestock necessarily

Burial of live-
stock or poultry
killed.

destroyed because of having been bitten by a dog, shall be paid fifty cents each for burial of such livestock or poultry killed, to be paid as other damages under this section. Upon payment by the county of damages to livestock or poultry by dogs, the rights of the owner of such livestock or poultry against the owner of the dog, to the extent of the amount of damages so paid by such county, shall enure to the benefit of the county.

Section 29. No payment shall be made for any item which has already been paid by the owner of the dog or dogs doing the injury. The fact that no such payment has been made shall be certified by the township auditor, justice of the peace, magistrate, or alderman.

Payment already made by owner.

When any payment is made by the county for any livestock bitten by a dog, such payment shall not exceed one hundred dollars for each horse or mule, forty dollars for each head of cattle, or six dollars for each head of swine.

Payment by county.

Section 30. Any valid claims or parts thereof for loss or damage to sheep, horses, mules, cattle, or swine, which have accrued under any general or local laws at any time prior to the passage of this act, shall not abate by reason of the repeal of such general or local act, but shall be paid out of the general fund of the proper county.

Valid claims shall not abate.

All claims or parts thereof remaining unpaid for any reason at the close of any year shall not abate, but shall continue as claims until paid in full.

Section 31. If, in the report of the township auditor, justice of the peace, magistrate, or alderman, the name of the owner of any dog or dogs having caused loss or damage to any livestock is definitely and conclusively shown, the county commissioners shall notify such owner or keeper immediately to kill said dog or dogs; and if said dog or dogs be killed in accordance with such notice or order, the owner or keeper of said dog or dogs shall be exempt from all further liability.

Notice to kill dogs.

Exemption from further liability.

Upon failure, however, of such owner to comply with such order within a period of ten days, he shall be liable for the damages caused by said dog or dogs; and the chief of police or his agent of the township, town, borough, or city in which said dog or dogs are kept shall, upon notice from the county commissioners, kill such dog or dogs wherever found. For such service he shall be entitled to one dollar for each dog so killed, to be paid by the proper county, upon a certified statement to the commissioners that such dog or dogs have been killed by him. The county commissioners shall issue an order on the county treasurer for such amount, unless payment has been made by the owner or keeper of the dog or dogs. Provided, however, That the owner or keeper of any licensed dog

Owner's failure to kill.

Provido.

or dogs that have caused loss or damage to poultry shall not be obliged to kill said dog or dogs unless said dog or dogs are mad, but shall be liable for said loss or damage.

False statements.

Section 32. It is unlawful for any person knowingly to make any false statement or to conceal any fact required to be disclosed under any of the provisions of this act.

Burden of proof.

Section 33. In any proceedings under this act the burden of proof of the fact that a dog has been licensed, or has been imported for breeding, trial, or show purposes, or that a dog is under the age of six months, shall be on the owner of such dog.

Any dog not bearing a license tag shall *prima facie* be deemed to be unlicensed.

Enforcement of act by Secretary of Agriculture.

Section 34. The Secretary of Agriculture, through his officers and agents, shall have the general supervision over the licensing and regulation of dogs and protection of livestock and poultry from damage by dogs in all counties of the Commonwealth. The commissioners of each county shall enforce, within their respective jurisdiction, the provisions of this act. To this end the Secretary of Agriculture may employ all proper means for the enforcement of this act. Any other State department, bureau, or commission may, on request of the Commissioner of Agriculture, assist in the enforcement of the provisions of this act.

Violations.

Section 35. Any person violating, or failing or refusing to comply with, any of the provisions of this act shall be guilty of a misdemeanor, and upon conviction shall be sentenced to pay a fine not exceeding one hundred dollars, or to undergo an imprisonment not exceeding three months, at the discretion of the court.

Penalty.

Fines.

All fines collected under the provisions of this act shall be forthwith paid to the treasurer of the proper county.

Limitation of act.

Section 36. This act is intended as a complete and uniform system throughout the Commonwealth for the licensing of dogs and the protection of livestock and poultry from injury by dogs; but nothing in this act shall interfere with any law for the protection and preservation of game. Except where such acts or parts of acts are specifically repealed, this act does not repeal or affect any acts or parts of acts relating to mad dogs or dogs affected with any disease.

Damages for dogs illegally killed.

Section 37. Nothing in this act shall be construed to prevent the owner of a licensed dog from recovery, by action at law, the value of any dog which dog has been illegally killed by any police officer, farmer, stockman, or other person within this Commonwealth, from said police officer, farmer, stockman, or other person. In case such police officer or other person fails to pay

the value of such dog so killed, the same shall be paid by the proper county. Said value of said dog to be ascertained in the same manner and form as provided in section twenty-five of this act for assessing the damage done to livestock by dogs.

Nothing in this act shall be so construed as to prevent the killing of a dog caught chasing deer at any time of the year, on either public or private lands; or to prevent the killing of dogs by any officer empowered to enforce the game laws of this Commonwealth when said dogs are pursuing game during the closed season for the training of dogs on game, providing said dogs are not under the immediate control or accompanied by their owners or keepers, and also provided that legal notice has previously been given said owner or keeper as required by the game laws of this Commonwealth.

Dogs chasing deer or other game.

Section 38. In the event that any one or more of the provisions of this act should be decided to be unconstitutional, the court's decision holding the same unconstitutional shall not affect the validity of the remaining provisions of this act, it being the intention of the Legislature that the provisions of this act are severable.

Provisions of act severable.

* Section 39. The powers and duties given to and imposed upon county commissioners and other officers by this act shall not extend to cities of the first and second class. In cities of the first and second class the power and duty to fix and collect the license fees provided in section four of this act, and issue license tags, and otherwise perform and carry out the provisions of this act within the limits of such cities shall be, and are hereby, given to and imposed upon the council or councils of each of said cities respectively.

Cities of the first and second class.

Section 40. This act does not repeal or in anywise affect any of the provisions of the following acts:—

Acts not affected.

The act, approved the first day of May, one thousand nine hundred and nine (Pamphlet Laws, three hundred twenty-five), entitled "An act to provide for the protection and preservation of game, game-quadrupeds and game-birds, and song and insectivorous and other wild birds, and prescribing penalties for violation of its several provisions."

1909, P. L. 325.

The act, approved the fifteenth day of April, one thousand nine hundred and fifteen (Pamphlet Laws, one hundred thirty-three), entitled "An act to amend section twenty-one of an act, entitled 'An act to provide for the protection and preservation of game, game-quadrupeds and game-birds, and song and insectivorous and other wild birds, and prescribing penalties for violation of its several provisions,' approved the first

1915, P. L. 133.

day of May, Anno Domini one thousand nine hundred and nine, by extending the season during which dogs may be trained."

1915, P. L. 644.

The act, approved the first day of June, one thousand nine hundred and fifteen (Pamphlet Laws, six hundred forty-four), entitled "An act to give additional protection to wild birds and animals and game within the Commonwealth of Pennsylvania; prohibiting the hunting for, or capture or killing, of such wild birds or animals or game by unnaturalized foreign-born residents; forbidding the ownership or possession of dogs by any unnaturalized foreign-born resident within the Commonwealth; and prescribing penalties for violation of its provisions."

Acts repealed.

Section 41. The following acts and parts of acts are hereby repealed:—

1878, P. L. 72.

The act, approved the eighteenth day of May, one thousand eight hundred and seventy-eight (Pamphlet Laws, seventy-two), entitled, "An act extending the provisions of an act relating to dogs in Allegheny, Chester, Northampton, Schuylkill and Lancaster Counties, approved the sixth day of April, Anno Domini one thousand eight hundred and fifty-four, to all the counties of this Commonwealth."

1878, P. L. 198.

The act, approved the twelfth day of June, one thousand eight hundred and seventy-eight (Pamphlet Laws, one hundred ninety-eight, number two hundred thirty-one), entitled "An act for the taxation of dogs and the protection of sheep."

1889, P. L. 222.

The act, approved the fifteenth day of May, one thousand eight hundred and eighty-nine (Pamphlet Laws, two hundred twenty-two), entitled "An act for the taxation of dogs and the protection of sheep."

1893, P. L. 136.

The act, approved the twenty-fifth day of May, one thousand eight hundred and ninety-three (Pamphlet Laws, one hundred thirty-six), entitled "An act for the taxation of dogs and the protection of sheep."

1897, P. L. 130.

The act, approved the seventh day of June, one thousand eight hundred and ninety-seven (Pamphlet Laws, one hundred thirty, number one hundred five), entitled "A supplement to 'An act for the taxation of dogs and the protection of sheep,' approved the twenty-fifth day of May, Anno Domini one thousand eight hundred and ninety-three, providing for the payment of claims which have accrued under local laws."

1901, P. L. 73.

The act, approved the eleventh day of April, one thousand nine hundred and one (Pamphlet Laws, seventy-three, number forty-three), entitled "A supplement to an act, entitled 'An act for the taxation of dogs and the protection of sheep,' approved the twenty-fifth day of May, Anno Domini one thousand eight hundred and ninety-three, providing that the fund

raised by the taxation of dogs be applied, in addition to the loss of sheep, for the loss of other domestic animals bitten by mad dogs."

The act, approved the twenty-third day of April, 1901, P. L. 92. one thousand nine hundred and one (Pamphlet Laws, ninety-two), entitled "An act to amend the ninth section of an act, entitled 'An act for the taxation of dogs and the protection of sheep,' approved the twenty-fifth day of May, one thousand eight hundred and ninety-three."

The act, approved the first day of March, one thousand nine hundred and five (Pamphlet Laws, twenty-eight), entitled "An act to amend the fifth section of an act, entitled 'An act for the taxation of dogs and the protection of sheep,' approved the twenty-fifth day of May, Anno Domini one thousand eight hundred and ninety-three, by requiring proof of the burial of the carcasses of sheep killed by dogs." 1905, P. L. 28.

The act, approved the first day of June, one thousand nine hundred and seven (Pamphlet Laws, three hundred sixty-two), entitled "An act supplementary to 'An act for the taxation of dogs and the protection of sheep,' approved the twenty-fifth day of May, Anno Domini one thousand eight hundred and ninety-three; requiring all dogs to wear a collar to be provided by the owner, together with a tag to be attached thereto showing payment of tax; imposing certain duties upon constables, tax collectors, and county commissioners; and providing for the killing of dogs whose owners fail to comply with this act and the act to which this is a supplement." 1907, P. L. 362.

The act, approved the twenty-third day of April, 1909, P. L. 170. one thousand nine hundred and nine (Pamphlet Laws, one hundred seventy), entitled "An act to amend the tenth section of an act, entitled 'An act for the taxation of dogs and the protection of sheep,' approved the twenty-fifth day of May, Anno Domini one thousand eight hundred and ninety-three, by making the act applicable to counties having over one hundred and fifty thousand, and less than two hundred and fifty thousand inhabitants."

The act, approved the fifteenth day of June, one thousand nine hundred and eleven (Pamphlet Laws, nine hundred sixty-eight), entitled "An act supplementary to 'An act for the taxation of dogs and the protection of sheep,' approved the twenty-fifth day of May, Anno Domini one thousand eight hundred and ninety-three; requiring all dogs to wear a collar to be provided by the owner, together with a tag to be attached thereto showing payment of tax, said tag to be provided by the county commissioners; imposing certain duties upon constables, tax collectors and county commissioners; and providing for the killing of dogs 1911, P. L. 968.

whose owners fail to comply with this act and the act to which this is a supplement; and providing penalties for failure to comply with the provisions of this act.”

1913, P. L. 259.

The act approved the twentieth day of May, one thousand nine hundred and thirteen (Pamphlet Laws, two hundred fifty-nine), entitled “An act to amend the first and third sections of an act, approved the fifteenth day of June, one thousand nine hundred eleven, entitled ‘An act supplementary to “An act for the taxation of dogs and the protection of sheep,” approved the twenty-fifth day of May, Anno Domini one thousand eight hundred and ninety-three; requiring all dogs to wear a collar to be provided by the owner, together with a tag to be attached thereto showing payment of tax, said tag to be provided by the county commissioners; imposing certain duties upon constables, tax collectors, and county commissioners; and providing for the killing of dogs whose owners fail to comply with this act and the act to which this is a supplement; and providing penalties for failure to comply with the provisions of this act,’ by making its provisions apply to all dogs of four months old and upwards; and to provide that the payment of the proper tax, and the giving of a tag by the collector, shall be sufficient assessment for all purposes.”

1915, P. L. 790.

The act, approved the third day of June, one thousand nine hundred and fifteen (Pamphlet Laws, seven hundred ninety, number three hundred fifty), entitled “An act for the protection of sheep and the incidental destruction of certain dogs.”

1915, P. L. 791.

The act, approved the third day of June, one thousand nine hundred and fifteen (Pamphlet Laws, seven hundred ninety-one), entitled “An act amending an act, entitled ‘An act supplementary to “An act for the taxation of dogs and the protection of sheep,” approved the twenty-fifth day of May, Anno Domini one thousand eight hundred and ninety-three; requiring all dogs to wear a collar to be provided by the owner, together with a tag to be attached thereto showing payment of tax, said tag to be provided by the county commissioners; imposing certain duties upon constables, tax collectors, and county commissioners; and providing for the killing of dogs whose owners fail to comply with this act and the act to which this is a supplement; and providing penalties for failure to comply with the provisions of this act,’ approved the fifteenth day of June, one thousand nine hundred eleven, as amended, so that assessors of the several cities, wards, boroughs, townships, or other assessment districts of this Commonwealth, shall collect an annual license fee for said dogs at the time of the annual assessment and issue a receipt and tag therefor; providing for the pub-

lication of the assessor's list of licensed dogs; requiring that all unlicensed dogs be killed, and fixing penalties for the violation of this act."


The act, approved the twenty-fourth day of April, 1903, P. L. 296. one thousand nine hundred and three (Pamphlet Laws, two hundred ninety-six), entitled "An act to amend section one hundred and fifty-four of the act of March twenty-one, one thousand eight hundred and sixty, entitled 'An act to consolidate, revise, and amend the penal laws of this Commonwealth,' " is hereby repealed in so far as it relates to dogs.

Section 42. All other acts or parts of acts, general, local or special, inconsistent with or supplied by this act, are hereby repealed. Repeal.

APPROVED—The 11th day of July, A. D. 1917.

MARTIN G. BRUMBAUGH.

The foregoing is a true and correct copy of the Act of the General Assembly No. 317.



Secretary of the Commonwealth.

RELATING TO LIMESTONE AND NIPPENOSE TOWNSHIPS,
LYCOMING COUNTY.

OFFICE OF THE ATTORNEY GENERAL,
Harrisburg, Pa., November 23, 1917.

Honorable Charles E. Patton,
Secretary of Agriculture,
Harrisburg, Pa.

Sir: Sometime ago you submitted to this Department a letter of the County Commissioners of Lycoming County, and upon it you based an inquiry as to whether Limestone and Nippenose Townships, in Lycoming County, are subject to the provisions of the Act of July 11, 1917, P. L. 818, known as "Dog Law of 1917."

The reason suggested why these two townships should not be subject to this Act of Assembly is because of a special Act of March 9, 1872, P. L. 304.

The Act of April 14, 1866, P. L. 903, is entitled:

"An act for the protection of sheep and taxing of dogs,
in the county of Lycoming."

That act, as its title indicates, requires the assessors to assess dogs in the several townships, boroughs, wards and cities of said county and imposes a tax thereon.

The Act of March 9, 1872, P. L. 304, simply repeals the Act of 1866 "so far as the townships of Limestone and Nippenose, in the said county of Lycoming" are concerned.

The situation, therefore, after the passage of the Act of 1872 is this—there was by Act of 1866 an act taxing dogs in these two townships; by the Act of 1872 there was no act taxing dogs in these two townships. That left the matter open for the Legislature and by "the Dog Law of 1917," which is a general act and applies to the State at large, the Legislature has dealt with this subject. There is nothing in it indicating that it was not intended to apply to these townships. The fact that the Legislature repealed one act taxing dogs in these two townships did not prevent another Legislature from passing an act, the effect of which would be to tax them.

I, therefore, advise you that "the Dog Law of 1917" applies to the townships of Limestone and Nippenose, in Lycoming County.

Very truly yours,

(Signed) WM. M. HARGEST,
Deputy Attorney General.

RELATING TO STOCK DOGS FOR BREEDING PURPOSES
UNDER KENNEL LICENSES.

OFFICE OF THE ATTORNEY GENERAL,

Harrisburg, Pa., December 18, 1917.

Honorable Charles E. Patton,
Secretary of Agriculture,
Harrisburg, Pa.

Sir: This Department is in receipt of your communication of the 30th ultimo relative to the "Dog Law of One thousand nine hundred and seventeen." From the letter which you enclose, it appears that the owner of a dog kennel in the State puts a certain number of his "matrons out on nearby farms where they are used as stock dogs." The owner of the kennel keeps a record of each dog so put out and "when due to breed, they are brought back * * * for breeding." Afterwards, they are again put out on the farms where they remain until the next breeding period.

You ask whether the dogs so put out are covered by a kennel license taken out by the owner of the kennel, or, whether each such dog must be separately licensed under the provisions of the eighth section of the statute.

The term "kennel" is defined in Section 3 to mean:

"Any establishment, wherein or whereon dogs are kept for the purpose of breeding, sale, or sporting purposes," and it is obvious from the foregoing definition, that only those dogs are covered by the kennel license issued under the authority of Section 11 of the act which are "kept for the purpose of breeding, etc.," *within* the kennel. Such licensed kennel must be the place where the dog is permanently confined. Section 11 which, *inter alia*, provides, that—

"with each kennel license, the County Treasurer shall issue a number of metal tags equal to the number of dogs authorized to be kept in the kennel."

and also by Section 12, which provides, that—

"such tags may be transferred from one dog to another *within* the kennel whenever any dog is removed from the kennel. No dog bearing a kennel tag shall be permitted to stray or to be taken anywhere *outside the limits of the kennel.*"

It is true this same section authorizes the taking of kennel dogs outside the limits of the kennel in leash or for certain purposes, but this is a temporary removal of the dogs only. If the kennel ceases

to become the regular and permanent place where the dog is confined, then, clearly within the language of the sections referred to, such dogs cease to become kennel dogs within the meaning of the act, and, therefore, are not protected by a kennel license.

Applying these provisions of the statute to the facts contained in the letter enclosed by you, it is clear that such dogs are not covered by kennel license. The dogs are not regularly or permanently kept within the kennel; they are put out and kept on "nearby farms" and are taken into the kennel only at breeding periods. At the expiration of these periods, they are immediately taken out of the kennel and again placed upon the farms. A kennel license issued under the act does authorize the kennel owner to take dogs outside the kennel temporarily for breeding purposes, but it does not authorize him to keep his dogs outside the kennel and bring them into it temporarily for such a purpose.

I have, therefore, to advise you, that dogs, put out on farms by the owner of a kennel in the manner and under the arrangement above set forth, are not covered by a kennel license, and that, in order to protect such dogs, they must be licensed under the eighth section of the statute.

I return the correspondence enclosed by you.

Very truly yours,

(Signed) WM. M. HARGEST,
Deputy Attorney General.

RELATING TO DOGS LICENSED UNDER KENNEL LICENSE
FOR HUNTING PURPOSES.

OFFICE OF THE ATTORNEY GENERAL,

Harrisburg, Pa., December 20, 1917.

Honorable Charles E. Patton,
Secretary of Agriculture,
Harrisburg, Pa.

Sir: Your favor of the 13th inst. addressed to the Attorney General was duly received.

You ask for an interpretation of Section 3, Section 11, and Section 12 of the Act of July 11, 1917, P. L. 818, and whether dogs registered under a kennel license can be taken from said kennels and used for hunting purposes during the hunting season without a violation of said law. This act establishes a complete and thorough going system

for the licensing of dogs; and their identity in the kennel; and as the property of the individual owner. It provides that upon application of the owner, or the person who harbors the dog, or permits such dog to remain about any premises occupied by him, a certain license shall be issued and it prescribes the fee, etc.

And, in addition, it provides for the operation of kennels, and fixes the fees for a kennel license and describes the kennel as follows:

“The term ‘Kennel’ shall mean any establishment wherein or whereon dogs are kept for the purpose of breeding, sale, or sporting purposes;”

and bases the fees on the number of dogs kept. The license is limited in extent and carries no description of the dog. It is, therefore, restricted in individual use.

While the exception in Section 12 says—that it is not intended to

“...prohibit the taking of dogs having a kennel license outside the limits of the kennel temporarily and in leash, nor does it prohibit the taking of such dogs out of the kennel temporarily for the purpose of hunting, breeding, trial, or show,”

it is clearly not the intention of the said Act of Assembly to permit dogs, registered under a kennel license, to be used for hunting purposes.

In order to arrive at a proper conclusion, it is perhaps necessary to examine the requirements for licensing dogs both in the case of the individual owner, and the keeper of a kennel,—(1) The owner of a dog is required to make formal application for a license for which he is compelled to pay a fee ranging in amount from one to four dollars; and (2) the keeper of a kennel is likewise required to make application for a license, and the fee fixed is five dollars for ten dogs, or less; and ten dollars for more than ten dogs permitted to be kept under the kennel license. The law distinctly provides the system of licensing dogs, and places upon the individual owner no restrictions whatever in the use of his dog, but on the owner of the kennel the use of the dogs are restricted as set forth above.

In the enactment of this legislation, the Legislature never intended to do an injustice to any person coming within its provisions; and hence it never intended to permit kennel owners, with an unlimited number of dogs, for a license fee of ten dollars, to farm out any or all of the kennel dogs for hunting purposes during the hunting season. In the exception to Section 12, the language is perfectly clear that dogs can be taken out temporarily for hunting purposes, but the term is so vague, indefinite and indecisive, that it could not be construed hunting purposes during the hunting season, and, therefore, such

licensed dogs, when used for hunting purposes, should be classed as individual dogs and be registered according to Section 8 of the above stated Act of Assembly, I am

Very truly yours,

(Signed) HARRY K. DAUGHERTY,
Deputy Attorney General.

RELATING TO MEANS OF PROCEDURE FOR NON-PERFORMANCE OF
DUTY BY COUNTY COMMISSIONERS AND OTHER PUBLIC OFFICERS.

OFFICE OF THE ATTORNEY GENERAL,

Harrisburg, Pa., January 3, 1918.

Honorable Charles E. Patton,
Secretary of Agriculture,
Harrisburg, Pa.

Sir: Your communication of December 19th received, asking to be advised as to the method of compelling County Commissioners to carry out the provisions of the Dog Law of 1917, P. L. 818.

In the case of non-performance of the duties of public officers authorized to enforce the provisions of this law, it is the duty of the Secretary of Agriculture to employ the proper means for the enforcement of the act.

Section 34 of said act provides, in part, as follows:

"To this and the Secretary of Agriculture may employ all proper means for the enforcement of this act. Any other State department, bureau, or commission may, on request of the Commissioner of Agriculture, assist in the enforcement of the provisions of this act."

County Commissioners, therefore, who refuse to perform their duties are guilty of a misdemeanor and should be proceeded against in accordance with Section 35 of this act, which provides as follows:

"Any person violating, or failing or refusing to comply with, any of the provisions of this act shall be guilty of a misdemeanor, and upon conviction shall be sentenced to pay a fine not exceeding one hundred dollars, or to undergo an imprisonment not exceeding three months, at the discretion of the court."

Upon notice of the violation, it would be the duty of the Secretary of Agriculture to direct the District Attorney of the proper county

to prepare and indictment against the accused officials and prosecute them in the criminal court of the county in which they live.

And, in addition, if the above remedy is not effective, the County Commissioners can be proceeded against by a writ of mandamus on the initiative of the Secretary of Agriculture, as provided in Section 4 of the Act of June 8, 1893, P. L. 345, which provides as follows:

“When the writ is sought to procure the enforcement of a public duty, the proceeding shall be prosecuted in the name of the Commonwealth on the relation of the Attorney General: Provided however, That said proceeding in proper cases shall be on the relation of the district attorney of the proper county: Provided further, That when said proceeding is sought to enforce a duty affecting a particular public interest of the State, it shall be on the relation of the officer entrusted with the management of such interest. In all other cases the party procuring the alternative writ shall be plaintiff, the party to whom said writ is directed shall be defendant, and the action shall be docketed as in ordinary cases, namely:, plaintiff, versus, defendant.”

Yours very truly,

(Signed) HARRY K. DAUGHERTY,
Deputy Attorney General.

RELATING TO COUNTY TREASURERS—COMPENSATION—EXTRA
CLERICAL SERVICE—POSTAGE.

OFFICE OF THE ATTORNEY GENERAL,

Harrisburg, Pa., January 31, 1918.

Honorable Charles E. Patton,
Secretary of Agriculture,
Harrisburg, Pa.

Sir: You recently requested this department to advise you upon the following propositions, based upon the Dog Law of 1917:

1. Whether the county treasurers are entitled to compensation for the work imposed upon them by that statute.
2. Whether county treasurers are authorized to employ extra clerical services to be paid out of the county treasury to perform the duties imposed thereby.

3. Whether the county treasurers have a right to pay postage on license certificates and license tags sent to an applicant upon a written application received by mail.

Answering the first proposition, I have to say that the Act of July 11, 1917, P. L. 818, known as the "Dog Law of 1917," requires certain duties to be performed by the treasurer of each county, but makes no provision whatever for the payment of any fees to the county treasurer for the services imposed upon him. It requires the County Commissioner to fix the amount of fees for licenses within certain limitations, and section 15 provides:

"An accurate record of all license fees collected by the county treasurer or paid over to him by any justice of the peace, shall be kept, as a matter of information, *but all such funds shall be turned into the county funds.*"

In *Hayes vs. Oil City, Sadlers Pa. Sup. Ct. Cas., Vol. 8, page 185*, the Supreme Court adopted an opinion of the Court below, quoting from Judge Dillion on Municipal Corporations, Vol. 1, Section 172, page 290:

"It is a well settled rule that a person accepting a public office, with a fixed salary, is bound to perform the duties of the office for salary. He cannot legally claim additional compensation for the discharge of these duties, even though the salary may be very inadequate remuneration for the services. Nor does it alter the case that by subsequent statutes or ordinances his duties within the scope of the charter powers pertaining to the office are increased and not his salary. When he considers the compensation inadequate, he is at liberty to resign. The rule is of importance to the public. To allow changes and additions in the duties properly belonging, or which may properly be attached, to an office, to lay the foundation for extra compensation, would introduce intolerable mischief. The rule, too, should be rigidly enforced."

To the same effect in the case of *Fry vs. Berks County, 38 Pa. Sup. Ct. 449*.

There seems to be no distinction in principle between the public officers who are paid salaries and those who are paid fees.

In the case of *Lehigh County vs. Semmel, 124 Pa. 358*, it is said:

"Public officers who are paid solely by fees take and hold their offices *cum onere*. They can claim no compensation for any service not specified or provided for in the fee bill. It is well settled that they cannot be paid out of the public treasury without the statutory warrant therefor....in some cases the rule may operate harshly; but the remedy, if any is needed, rests with the legislature alone. The courts have no power either to make or amend fee bills."

I, therefore, advise you that the Dog Law of 1917, having imposed additional duties upon county treasurers, and provided no compensation therefor, such duties must be performed without compensation.

2. The statute is silent upon the subject of the employment of extra clerks, but I am of opinion that it does, by implication, authorize the county treasurer to employ such clerks and authorizes the payment of their compensation out of the county treasury.

The rule governing the proposition is thus expressed in *Throop on Public Officers, Section 542*:

“The rule respecting such powers (i. e. implied or incidental powers) is, that in addition to the powers expressly given by statute to an officer or a board of officers, he or it has, by implication, such additional powers, as are necessary for the due and efficient exercise of the powers expressly granted, or as may be fairly implied from the statute granting the express powers.”

The case of *New York vs. Sands*, 105 N. Y. 219, cited with approval in *Endlich on the Interpretation of Statutes, Section 418*, decides that where an act authorizing the comptroller of a county to create a public fund or stock for certain specified purposes, it impliedly authorized the officer to employ an agent to negotiate the county bonds provided for by the act, to make an agreement with him for compensation, and to pay him out of the proceeds of the bonds.

In *Kershner vs. Stoltz*, 1 Pa. C. C. 72, it was held that in duties of a ministerial nature a person on whom the duties were imposed by statute had implied power to employ such clerks as he deemed necessary to enable him to comply with the mandate of the law.

The act of 1917 imposes on the county treasurer extensive duties of a ministerial nature and it is not to be presumed that the Legislature intended that the county treasurer must perform these duties with the clerical force which he had at the time of the passage of the act. The presumption is that if extra clerk hire is necessary, the county treasurer, that is, the officer on whom the duties are imposed, may employ such extra help as he deems necessary.

Section 15 of the act provides, inter alia:

“All bills incurred under this act shall be paid out of the county funds.”

Section 19 provides, inter alia, that

“All expenses incurred under this act....and not otherwise provided for shall be paid by the proper county.”

I am therefore of opinion that the county treasurer has authority to engage and bind the county to pay the compensation of such clerks as he deems necessary to employ.

3. I am of opinion that there is no authority to authorize the county treasurer to pay postage on license certificates and license tags sent by mail upon a written application.

The act primarily contemplates that an applicant wishing to secure a license shall present himself personally, and that the license certificate and license tag shall be given to him in person.

Section 4 of the act provides that the owner of a dog shall apply to the county treasurer "*Either orally or in writing* for a license for each such dog owned or kept by him."

Section 7 of the act authorizes a justice of the peace to issue such licenses upon the payment of an extra charge of fifteen cents.

The true intent of the act seems to be that the owner of a dog shall go to a county treasurer, or, for the sake of convenience, he may go to the nearest justice of the peace, make his application and secure his license. This is the primary procedure provided by the act for securing a license, but, recognizing that in some cases this might present inconvenience to the owner of the dog, it provides that an application may be made in writing.

If, however, the applicant desires to avail himself of this written application, *he must do so without any more expense to the county than would be occasioned by one applying orally for a license*, and, if he desires that the license tag and license certificate be mailed to him, he must advance to the county treasurer such additional sum as will cover postage fees.

Very truly yours,

(Signed) WILLIAM M. HARGEST,
Deputy Attorney General.

RELATING TO:
COLLECTION OF FEES BY STATE AGENCIES.
DEFINITION OF THE TERM "ANY PERSON"
AS USED IN SECTION 35.

Harrisburg, Pa., February 19, 1918.

Honorable Charles E. Patton,
Secretary of Agriculture,
Harrisburg, Pa.

Dear Sir:

Your favor of the 29th ult., addressed to the Attorney General, is at hand. You asked to be advised—

"With respect to Section 18 of the Act approved the 11th day of July, 1917. I shall be very glad to have your advice whether or not sworn officers of the Commonwealth who are deputized for police service to perform certain services for other agencies of the Commonwealth and without salary, can collect from the County Commissioners the fees provided for in the several sections of this Act pertaining to the detention of dogs as well as the destruction of the same."

Attention is called to Section 3 of this act, which provides as follows:

"The term 'police officer' shall mean any person employed or elected by this Commonwealth, or by any municipality, county, or township, and whose duty it is to preserve peace or to make arrests or to enforce the law. The term includes game, fish and forest wardens."

Under the term "police officer" is included the chief of police or his agents, of any city, the high constable of any borough, or the constable of any borough not having a high constable, the constable of any incorporated town or township, game, fish and forest wardens.

In Section 18 it is provided—"It shall be the duty of every police officer to seize and detain any dog or dogs which bear a proper license tag, and which are found running at large and unaccompanied by its owner or keeper. It shall be the duty of every police officer to kill any dog which does not bear a proper license tag, which is found running at large;" and the specific duty of "the chief of police or his agents, of any city, the high constable of any borough, or the constable of any borough not having a high constable, and the constable of any incorporated town or township, shall cause any dog bearing a proper license tag and so seized and detained to be properly kept and fed, and shall cause immediate notice, either personal or by registered

mail, to be given to the person in whose name the license was procured, or his agent, to claim such dog within ten days."

Under Section 19 such officer shall be paid the sum of one dollar for detaining the said licensed dog, and one dollar for the killing of a dog.

You are, therefore, advised that only the officers specifically named for the duty of detaining dogs, their care, and the final disposition of the same, are entitled to the fee as provided in Section 19. Clearly, it is the duty of any police officer to seize and detain any dog or dogs which bear a proper license tag, and which are found running at large and unaccompanied by its owner or keeper; and also the duty of any police officer to kill any dog which does not bear a proper license tag, which is found running at large, and for such services they shall be paid the sum of one dollar. For the specific duty of detention, care and destruction of a dog, however, the duty must be confined to the officers above named,—the Legislature evidently having in mind the fact that the chief of police or his agents, the high constable of any borough, the constable of any borough not having a high constable, or the constable of any incorporated town or township, are permanent officers, located at a fixed and definite place, while the various wardens are subject to call to different sections of the State.

Further, that the police officers of the State, which include the chief of police, or his agents, the high constable of any borough, the constable of any borough not having a high constable, the constable of any incorporated town or township, the game, fish and forest wardens, are authorized to enforce the other provisions of this law and receive the fees as provided therein.

Further, you ask to be advised, "also with respect to Section 35, I shall be very glad to have you define specifically the individual duty provided for in the same covered by the words 'any person.'"

Section 35 of this act has reference to its violations, fines and penalties, and is as follows:

"Any person violating, or failing or refusing to comply with, any of the provisions of this act shall be guilty of a misdemeanor, and upon conviction shall be sentenced to pay a fine not exceeding one hundred dollars, or to undergo an imprisonment not exceeding three months, at the discretion of the court.

All fines collected under the provisions of this act shall be forthwith paid to the treasurer of the proper county."

Briefly, any person who refuses or neglects to perform his official duties violates this law, or any person who fails or refuses to comply with its provisions likewise is guilty of its violation. "Any person" may mean a county commissioner or county treasurer who refuses to

perform or neglects to perform his duties as set forth in the different sections of the act; or any person who is the owner of a dog over six months old who refuses or neglects, on or before the fifteenth day of January, to make application for a license for such dog; or any person becoming the owner, after the fifteenth day of January of any year, of any dog six months old or over and refuses or neglects to make application for a license; or any person who keeps a kennel and refuses or neglects to take out a license for the same; or any assessor who fails to carry out the provisions of Section 16 of this act; or any person who on and after the fifteenth day of January, one thousand nine hundred and eighteen, shall keep any dog six months old or over, unless such dog is licensed by the treasurer of the county in which the dog is kept; or any person who kills, injures or poisons any dog which bears a license tag for the current year; or any person who places any dog-button, or any poison of any description, in any place on his own premises or elsewhere where it may be easily found and eaten by dogs; or any person, except the owner, who removes any license tag from a dog collar or removes any collar with a license tag attached thereto from any dog; or any person who harbors, or permits to remain about his premises, any dog not having a license; or any person knowingly who makes any false statement or conceals any fact required to be disclosed under the provisions of this act.

The Secretary of Agriculture, through his officers and agents, shall have the general supervision over the licensing and regulation of dogs and protection of livestock and poultry from damage by dogs in all counties of the Commonwealth. The commissioners of each county shall enforce, within their respective jurisdiction, the provisions of this act. To this end the Secretary of Agriculture may employ all proper means for the enforcement of this act. Any other State department, bureau, or commission may, on request of the Commissioner of Agriculture, assist in the enforcement of the provisions of this act.

Very truly yours,

(Signed) HARRY K. DAUGHERTY,
Deputy Attorney General.

RELATING TO :
SHOOTING OF FIRE ARMS WITHIN BOROUGH LIMITS.
DOGS RUNNING AT LARGE.
ISSUING LICENSES AFTER JANUARY 15th OF EACH YEAR.

Harrisburg, Pa., March 11, 1918.

Honorable Charles E. Patton,
Secretary of Agriculture,
Harrisburg, Pa.

Sir: Your several communications directed to the Attorney General, dated March 6th, in which you ask to be advised upon certain features of the Dog Law of 1917, have been duly received.

First: In reference to an apparent conflict between borough ordinances and the law of the State, the question being raised in this way:

"There is a peculiar condition existing in this borough relative to the Dog Law. Our burgess declares that under our borough ordinance no shooting of fire-arms is permitted within borough limits and no dogs can be shot. We cannot believe that our borough laws are greater than State laws."

Concerning this inquiry you are advised that under the police powers of the State the borough has the right to enact regulations for the peace, health, protection and morals of the community, which does not encroach upon the general powers of the State; but could not by municipal enactment prevent a sworn officer of the law from enforcing a statutory provision of the State.

"Boroughs under their corporate powers shall have power to make such laws, ordinances, by-laws and regulations as are not inconsistent with the laws of this Commonwealth." (Purdon's Digest, 13 Ed. Vol. 1, page 492.)

On the point in question Section 18 of the Dog Law provides:

"It shall be the duty of every police officer to kill any dog which does not bear a proper license tag which is found running at large."

In Section 20 of the same law a penalty upon failure of the officer to perform his duty as above is imposed. Such officer, then, by statutory enactment has certain defined duties which he must perform and upon failure he is subjected to a penalty. Therefore he can and may perform his duty as required without violating any municipal ordinance or enactment, though such enactment might otherwise provide.

While a borough may prohibit the shooting of firearms within the borough limits, no such ordinance was ever intended to prohibit the regularly constituted peace officers from discharging firearms in case of riot, insurrection, disturbance of the peace, enforcement of the law, or in making arrests, but in its application has particular reference to reckless or promiscuous shooting of fire arms.

Second: This inquiry relates to the question of dogs running at large and is as follows:

"A party here holds the contention that he has a perfect right to let his dog run on any of his property at any time of day, regardless whether or not he accompanies said dog at time while running. This party has reference to property about one half mile from the place on which he lives; and does not connect with the place on which he lives in anyway, shape or form. Said property is a stump and pasture lot; and one of the best 'rabbit pastures' around here. Whether a 'rabbit pasture' or other kind of property away from his residence he cannot keep any dog from straying from that property and I say he cannot let the dog run at will."

Under Section 18 it is provided:

"It shall be the duty of every police officer to kill any dog which does not bear a proper license tag which is found running at large."

Under the precise meaning of the words "running at large" this question will be determined. Under the provisions of the present law, dogs are personal property and the application of the phrase "running at large" should be the same as its application to other animals. "Running at large" means strolling without restraint or confinement, as rambling, roving or wandering at will, unrestrained, i. e., without anyone to hinder or direct them. "Going at large" is used in the statute prohibiting animals running at large without a keeper and means the unrestrained use of the highway by animals in the absence of the keeper or other person to look after them. Animals trespassing upon the premises of another than their owners when not under the immediate control of their owners are "running at large." The statutes of different states, as well as Pennsylvania, agree on the meaning of the words "running at large," and the general interpretation seems to be that animals when found trespassing on the public roads and streets, or on the premises of another and away from the owner or keeper are "running at large," but when the animals are on the premises of the owner or keeper they cannot be properly classed as "running at large," as applicable to animals which roam, ramble and feed at will without restraint or care.

Therefore, you are advised that the dog or dogs on the farm or farms of the owners or keepers are not "running at large" within the meaning of the term as defined in this law.

Third: The communication relative to the issuance of dog licenses after January 15th and raised by the letter of David Cameron, Esq., in which he says:

"As counsel for the Commissioners of Tioga County, I advise them that the County Treasurer could not issue a license unless the owner of the dog sought to be licensed made application on or before the 15th day of January. Our court sustained me in that position."

It is clear and positive that one of the principal objects of this act is to require the licensing of all dogs.

"On and after the 15th day of January, 1918, it shall be unlawful for any person to own or keep any dog six months old or over unless such dog is licensed by the treasurer of the county in which the dog is kept." (Section 17.)

This is obvious and as the county treasurer issues the license upon application, there is no other method to be followed. The Legislature intended that all dogs over a certain age should be registered and licensed and penalty is fixed for a non-performance of duty.

There is contained in the act no express or implied prohibition from granting of licenses upon proper application, and it is the opinion of this department that county treasurers must continue the issuance of licenses upon application without regard to the failure of the applicant to make the said application on or before January 15th; and the owner, therefore, who failed to make application before that date can do so afterwards and obtain the necessary license, I am,

Very truly yours,

(Signed) HARRY K. DAUGHERTY,
Deputy Attorney General.

(Abstract of law for circular or poster.)

DOG LAW OF 1917.

In order that the residents of.....County, and the owners of dogs in particular, may be acquainted with the "Dog Law of 1917" we take this means of bringing to their attention the following extracts from said law.

OWNER DEFINED.

"The word 'OWNER' when applied to the proprietorship of a dog shall include every person having a right of property in such dog, and every person who keeps or harbors such dog, or has in his care such dog and every person who permits such dog to remain in or about any premises occupied by him."

APPLICATION FOR LICENSE.

On or before the fifteenth day of January, 1918, and on or before the fifteenth day of January of each year thereafter, the owner of any dog six months old or over shall apply to the County Treasurer or a Justice of the Peace who has qualified, either personally or in writing, for a license for each such dog owned or kept by him. Such application shall state the breed, sex, age, color and markings of such dog, and the name and address of the last previous owner; and shall be accompanied by a fee of.....Dollars for each Male dog and each Spayed Female dog; and by a fee of.....Dollars for each Unspayed Female dog.

SECTION EIGHT.

Any person becoming the owner, after the fifteenth day of January of any year, of any dog six months old or over which has not already been licensed, or any person owning or keeping a dog which becomes six months old at any time after the fifteenth day of January of any year, shall forthwith apply for and secure a license for such dog in the same manner as the annual license is obtained under the provisions of this act. If any such application is made at any time after the fifteenth day of July of any year the license fee shall be one-half of the amount fixed as the annual fee.

SECTION EIGHTEEN.

It shall be the duty of every constable or police officer to seize and detain any dog or dogs which bear a proper license tag, and which are found running at large and unaccompanied by its owner or keeper.

It shall be the duty of every constable or police officer to kill any dog which does not bear a proper license tag, which is found running at large.

SECTION THIRTY-FOUR.

The general enforcement of this law is placed in the hands of the Secretary of Agriculture of this State and he insists upon a rigid enforcement by the Commissioners of each county.

You will notice that NO DOGS ARE TO BE PERMITTED TO RUN AT LARGE UNACCOMPANIED BY THEIR OWNERS OR KEEPERS.

(Signed)

County Commissioners.

PLEASE POST.

AFFIDAVIT FORM FOR SEIZING, DETAINING AND DISPOSING OF
LICENSED DOG.

Commonwealth of Pennsylvania
County of Schuylkill

ss:

....., being first duly sworn, (affirmed)
deposes and says, that he is, of the.....
.....Ward of the city (borough or township of
.....; that on theday of, 19....,
he seized and detained one certain dog found running at large and
unaccompanied by its owner or keeper; that said dog bore a proper
license tag numbered; that said license was procured
in the name of; that he immediately notified the
said, (....., the agent
of said) personally, (by registered mail) to
claim such dog within ten days; that said
neglected to claim said dog within ten days from the giving of such
notice or to pay the expenses incurred by reason of its detention;
that he kept and fed said dog for a period of days at an
expense to him of.....dollars; that on the.....day of
....., 191...., he disposed of said dog by
..... (If said dog was sold)....That he derived
from the sale of such dog dollars, which sum, after
deducting the expenses of the detention of said dog above set forth,
was paid to the county treasurer; (that the sum realized from the
sale of the dog was insufficient to pay the expenses of the detention
above set forth, and that there is still due and owing to the affiant
the sum of dollars for such detention.) That your affiant
further says that said dog was not sold for the purpose of vivisection.

Sworn and subscribed to before me
thisday of, 19;....
.....

AFFIDAVIT FORM FOR KILLING UNLICENSED DOG.

Commonwealth of Pennsylvania
County of Schuylkill

ss:

....., being first duly sworn (affirmed)
deposes and says that he is of the
.....Ward of the city (borough, township) of;
that on the day of, 191...., he killed
one certain dog found running at large at....., and

bearing no proper license tag; that the description of said dog is
 as follows:

Subscribed and sworn
 to before me this
 day of, 191.....

(Note: Dogs under the age of six months are not licensed and should not be killed
 for failure to bear license tag.)

(Obverse Side)

TREASURER'S FILE COPY

No. 1000

DOG LICENSE

(Assessment District)

Date Issued.....191.....

To.....

P. O. Address.....

For the Year**1918****Tag of Same Number Issued**One.....dog
(Breed)

Amount Tax \$.....

Sex..... Issued by
(Male, Female or Spayed)

Age

Color.....
(County Treasurer)

Markings.....

Per.....

Instructions see other side)

NAME OF COUNTY

Owner must see that License Tags are firmly attached to collar on January 15th, 1918. This
License expires January 14th, 1919.Dog Licensed in one county and permanently removed to another county—owner or keeper
must apply to County Treasurer who will certify License to Treasurer of new county who will
issue new License and Tag and charge a fee of 25 cents.Ownership or possession of Dog permanently transferred from one person to another within
the same county—License may be transferred upon notice and presentation of this license to
County Treasurer—using same Tag.

P. O. Address.....

To.....

Date Issued.....

19.....

**TRANSFER
OF
OWNERSHIP**

(Assessment District)

No.....

This to be filled out
by County Treasurer in
case of change of owner-
ship in same county.

(Reverse Side)

TRANSFER
OF
OWNERSHIP

No.

.....
(Assessment District)

Date Issued.....19.....

To.....

P. O. Address.....

This to be filed out
by County Treasurer in
case of change of owner-
ship in same county.

(Instructions see other side)

Per.....

Markings.....

Color.....

Age.....

Sex.....
(Male, Female or Spayed)

Issued by.....

(Breed)

One.....dog

1918

For the Year

Tag of Same Number Issued

P. O. Address.....

To.....

Date Issued.....

191.....

(Assessment District)

DOG LICENSE

No. 1000

(Obverse Side)

TREASURER'S FILE COPY

No.

Kennel License

(Dog Law of 1917)

(Assessment District)

Date Issued.....191.....

To.....

P. O. Address.....

Place of Business

For the Year

1918

Tags of Same Number Issued

..... Dogs Amount Tax \$

(Number in Kennel)

Issued by.....County Treasurer

.....Deputy

(Extract of Act—see other side)

NAME OF COUNTY

DOG LAW OF 1917

Section 11. Any person who keeps or operates a kennel may, in lieu of the license for each dog required by this act, apply to the county treasurer for a kennel license entitling him to keep or operate such kennel. Such license * * * shall entitle the licensee to keep any number of dogs six months old or over, not at any time exceeding a certain number to be specified in the license. The fee to be paid for each kennel license shall be five dollars for ten dogs or less, and ten dollars for more than ten dogs permitted to be kept under the kennel licenses. With each kennel license the county treasurer shall issue a number of metal tags equal to the number of dogs authorized to be kept in the kennel. * * *

Section 12. The licensee of a kennel shall, at all times, keep one of such tags attached to a collar on each dog six months old or over kept by him under a kennel license. Such tags may be transferred from one dog to another within the kennel whenever any dog is removed from the kennel. **No dog bearing a kennel tag shall be permitted to stray or to be taken anywhere outside the limits of the kennel.**

This section does not prohibit the taking of dogs having a kennel license outside the limits of the kennel temporarily and in leash, nor does it prohibit the taking of such dogs out of the kennel temporarily for the purpose of hunting, breeding, trial, or show.

(Reverse Side)

NAME OF COUNTY

No.

Kennel License

(Dog Law of 1917)

(Assessment District)

Date Issued 191

To

P. O. Address.

Place of Business.

For the Year

1918

Tags of Same Number Issued

Dogs

Amount Tax \$

(Number in Kennel)

Issued by

County Treasurer

Deputy

(Extract of Act—see other side)

CIRCULAR RELATING TO THE ENFORCEMENT OF THE DOG
LAW OF 1917.

Commonwealth of Pennsylvania,
Office of the Board of Game Commissioners,
Harrisburg, Pa., January 11, 1918.

TO GAME PROTECTORS OF THE STATE.

My Dear Sir:

We are just in receipt of a letter from the Secretary of Agriculture, into whose hands the Legislature has placed the duty of seeing to it that the provisions of the new Dog Law are enforced. In this letter the Secretary calls our attention to the fact that all police officers of this State are authorized and required to enforce the provisions of this law, and insists that the officers of the Game Commission do their duty in this particular. Section 3 of the Dog Law prescribes who shall be called police officers, and this definition includes Game Protectors.

Section 18 of the same Act, provides, "It shall be the duty of every police officer to seize and detain any dog or dogs which bear a proper license tag, and which are found running at large and unaccompanied by their owner or keeper." In the second clause it provides, "It shall be the duty of every police officer to kill any dog which does not bear a proper license tag, which is found running at large," and Section 20 provides penalties for failure or neglect to do our full duty in this respect, and I now write you regarding the matter.

You will be expected to enforce the provisions of this Act in a reasonable and careful manner, WHEN DOGS ARE FOUND RUNNING AT LARGE, considering the spirit and intent of the Act as well as its strict letter, and to do what you can in this direction without neglecting your duty as a Game Protector. We believe you can render efficient aid in this direction.

In the matter of taking and holding dogs that may be properly licensed, but "found running at large," we hardly believe it to be the intent of the Law that we shall neglect our duty under the Game Law, to turn aside to enforce the Dog Law, as we would be compelled to do if we were to attempt to catch and retain and feed dogs under the provisions of the first clause of Section 18. You cannot be expected to stay at home to feed dogs when you have other work to do. This same section requires Borough and Township officers to do this same thing. We presume these officials will be far better prepared to care for captured dogs than you can possibly be, and we, therefore, direct that you arrange with such officials to receive and care for such dogs as you may seize.

In the matter of killing dogs under the provisions of the second clause of Section 18, we ask that you use good judgment, considering not only the fact that such unlicensed dog is found running at large, but also the circumstances surrounding each case under consideration. For instance, under the provisions of Section 24 of this Act, all

dogs must be confined or restricted in their wanderings during the night time. By the same section hunting dogs are accorded special privileges at certain times, "when accompanied by their owner or handler." If you have ever had to do with fox hunting, you well know that when a good fox dog takes a trail, he sticks until the fox is killed, or holed, or the dog worn out. He stays on the track night and day, and will turn aside for nothing. He would be too tired and worn out to kill a sheep, even if so disposed. It is impossible many times for the owner to stop his dog, even if so inclined. We want to ask that you use good judgment in all such cases, and refrain from killing such dog, either with or without a tag, except as a last resort. Valuable dogs will be destroyed unfairly, unless care is shown in this respect.

You have authority to kill unlicensed dogs anywhere in the Commonwealth, excepting in cities of the first and second class. As officers, both police officers and constables, in villages and boroughs, are entrusted with like powers and duties, we believe it would be well for you to insist that such officers kill the dogs within their jurisdiction, in this way avoiding friction that might arise because of local ordinances or regulations. We suggest, too, that constables in townships help along in this work. It is as much their duty to enforce the provisions of this law as it is your duty. See to it that this help is accorded.

We want to be as fair as possible to dog owners, considering our duty to the State, in our attempt to interpret the intent and scope of the various provisions of this Dog Law, and in the matter of what is intended by the words, "running at large," believe that we have already ruled regarding that feature of our Game Law that provides, dogs may be trained at certain times other than the open season, "so long as such dogs are at all times under the care and control of their masters," will apply to this problem. In that case we expressed the thought that no hard and fast rule that would be anything like fair or just, could be devised that would apply to all dogs at all times; that what would be "control" of a bird dog, would not be "control" of a fox hound or a rabbit dog, and thought that in deciding a case of this kind, the character and uses to which a dog might be put should be given consideration. We believe the same rule should prevail in deciding what is intended by the law when it uses the words "running at large." The fox hound or the rabbit dog may be a mile or even five miles from his master or owner, even a bird dog may be found in the same shape. The dog may be lost and actually going away from his master instead of towards him. We know many dogs, regardless of species, are lost in this way, and in our opinion those passing this law did not intend that a valuable dog should be destroyed simply because his master was not in sight. So we ask that care be exercised in all instances before a dog is killed. If a dog owner turns his dog out to run as he pleases, or carelessly or negligently leaves the dog either by day or night in the woods to come home at pleasure, the value of the dog should not prevent his being killed, but if the owner is reasonably careful in the attempt to control his dog, that fact should be given consideration. I am confident a little energy upon your part will quickly demonstrate the identity of the dogs in your

district that should be killed on sight, as well as those that should be given a chance through warning to their owners.

When you know a dog has been licensed for any year, you should not kill such dog simply because you may find it "running at large" without the tag. The dog may have slipped his collar or gotten away accidentally, or even been released by some one for spite, and in the hope that it would be killed. The man who tries to obey the law should be accorded every reasonable courtesy and favor in this respect, both in the matter of a dog wandering at night or found at large during the daytime, either with or without the tag.

In conclusion, I desire to call attention to the fact that, although this Dog Law repeals specifically many of our laws relating to dogs, and in addition repeal other acts inconsistent with the provisions of this act, it does not repeal the act denying to aliens the right to own or be possessed of a dog. See Section 40 of the Dog Law, page 107 of the 1917 pamphlet containing the Game, Fish and Forestry Laws.

Use good judgment, and if you strike a snag write the office.

Respectfully yours,

(Signed) JOSEPH KALBFUS,
Secretary, Game Commission.

